

NOTICE: This opinion is subject to formal revision before publication in the Board volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

**Sonicraft, Inc. and Warehouse, Mail Order, Office,
Technical and Professional Employees Union,
Local 743, International Brotherhood of Team-
sters, AFL-CIO. Case 13-CA-22020**

March 15, 1996

FOURTH SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND COHEN

On June 15, 1989, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Sonicraft, Inc., the Respondent, to reinstate and make whole certain of its employees for loss of earnings and other benefits resulting from its discrimination against them in violation of the National Labor Relations Act. On June 12, 1990, the United States Court of Appeals for the Seventh Circuit entered its judgment enforcing the Board's Order.²

A controversy having subsequently arisen over the Respondent's failure to reinstate the named discriminatees, on January 15, 1993, the Regional Director issued a second compliance specification.³ Thereafter, on February 2 and March 8, 1994, respectively, the Respondent and the General Counsel entered into a second formal settlement stipulation. On October 19, 1995, the Board issued a Second Supplemental Order approving the second settlement stipulation and ordering the Respondent to make certain payments beginning February 15, 1994, and continuing on a monthly basis (with payment due to the Regional Office by the 15th of each month) until the total sum of \$60,000 plus interest calculated at 6.5 per annum is

¹ 295 NLRB 766 (1989).

² 905 F.2d 146 (7th Cir. 1990).

³ The initial compliance specification issued on January 16, 1991, and was amended on June 27, 1991 and February 12, 1992. On July 31, 1992, the Respondent and the General Counsel entered into a formal settlement with respect to that compliance specification. On September 30, 1992, the Board issued a Supplemental Order approving the settlement and ordering the Respondent to take the action set forth therein. On October 22, 1992, the United States Court of Appeals for the Seventh Circuit entered a consent judgment enforcing the Board's Supplemental Order. Thereafter, on December 14, 1995, the General Counsel filed with the Board a Motion for Summary Judgment asserting that the Respondent had failed to comply with the terms of the settlement and was in default, and requesting that the Board therefore order the Respondent to pay the entire remaining balance due and payable pursuant to the terms of the settlement. On January 31, 1996, the Board issued a Third Supplemental Decision and Order granting the General Counsel's motion. 320 NLRB No. 47. The instant motion followed and concerns only the second compliance specification, second settlement, and Second Supplemental Order as described above.

paid, but no later than December 15, 2000. Pursuant to the terms of the second settlement, the Board's Order further provided that:

In the event Respondent fails to make timely payment of any amounts set forth above, the Regional Director of Region 13 of the National Labor Relations Board may serve a notice of default upon the Respondent. The Respondent shall have 15 days from the receipt of said notice to cure the default and, if the amounts due and owing are not remitted to the Regional Office by such time, the entire remaining balance on the total amounts set forth shall become immediately due and payable. The parties further agree that without any further notice to the Respondent or any other proceedings of any kind, on motion of the General Counsel, the Board may issue an Order for the total amount of backpay and interest then outstanding and due and United States Court of Appeals may enter a judgment for said amount *ex parte*. Respondent Sonicraft waives all defenses to the entry of said judgment.

On December 12, 1995, the United States Court of Appeals for the Seventh Circuit entered a consent supplemental judgment enforcing the Board's Second Supplemental Order.

Thereafter, on February 5, 1996, the General Counsel filed with the Board a Motion to Transfer Proceedings to the Board and Motion for Summary Judgment. The General Counsel submits that the Respondent has failed to comply with the terms of the second settlement by failing to remit monthly payments due, that the Respondent is in default, that the Acting Regional Director notified the Respondent that it was in default by letter dated November 24, 1995, and that the Respondent has nevertheless failed to make the payments due. Pursuant to the terms of the second settlement, the General Counsel therefore requests that the Board order the Respondent's immediate payment of the total amount of backpay and interest currently outstanding and due (\$46,204.60), plus interest.

On February 7, 1996, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

According to the uncontroverted allegations of the motion for summary judgment, the Respondent has failed to comply with the terms of the second settlement stipulation by failing to remit monthly payments

due, and is in default. Furthermore, the Acting Regional Director has served a notice of default on the Respondent in compliance with the second settlement stipulation, and the Respondent has nevertheless failed to cure its default. Under the terms of the second settlement stipulation and Second Supplemental Order, therefore, the entire remaining balance and interest due and owing over the payment period is immediately due and payable and the Board may issue an order for the total amount of outstanding backpay and interest due on motion by the General Counsel. Accordingly, we grant the General Counsel's Motion for Summary Judgment and will order payment by the Respondent of the total amount of backpay and interest currently outstanding and due as set forth in the General Counsel's motion, plus interest accruing on that amount to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Soncraft, Inc., Chicago, Illinois, its officers, agents, successors, and assigns, shall make whole

the discriminatees by immediately paying the following amount that is the total amount of backpay and interest currently outstanding and due under the terms of the Board's October 19, 1995 Second Supplemental Order, as enforced, plus interest to be computed in the manner set forth in the Second Supplemental Order, minus tax withholdings required by Federal and state laws: \$46,204.60.

Dated, Washington, D.C. March 15, 1996

William B. Gould IV, Chairman

Margaret A. Browning, Member

Charles I. Cohen, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD